

PENDING CALIFORNIA LEGISLATION of interest to banks, as of May 5, 2003  
2003

**A.B. 3** (Calderon), as amended April 8, 2003, with Committee on Banking and Finance. Hearing scheduled for April 21, 2003 was cancelled at author's request.

Consumer Credit Reporting Agencies Act of 2004. Would amend Civil Code 1785.13(d) to require a consumer credit reporting agency to remove adverse information within 30 days (instead of 90) after the agency is prohibited from including the information.

Would amend Civil Code 1785.25 to require a tax, judgment, or civil lienholder who has furnished information to consumer credit reporting agencies to report within 30 days that a reported lien has been released, or that an incident that resulted in the reporting of adverse information has been resolved.

**A.B. 46** (Similian), as amended March 19, 2003, with Committee on Appropriations. In suspense file.

Would add Civil Code 1798.85.1 to prohibit an employer from requiring an employee to use his/her social security number in a manner that is available to the public or an unauthorized third party.

Would amend Labor Code 226 to allow employers to use personal identification numbers other than social security numbers on wage statements. Other identity theft provisions (Penal Code 667.13)

**A.B. 70** (Wyland), as amended March 5, 2003. *Passed Assembly (77-0)*; with Senate Committee on Public Safety.

Would amend Penal Code 502.01 to add to the list of offenses for which a computer, etc., used in the commission of the offense would be subject to forfeiture.

**A.B. 73** (Lowenthal), as amended March 24, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would add Financial Code 4003 to prohibit a charge card issuer, financial institution, or other lender from soliciting consumer loans or credit by sending unsolicited checks to consumers who reside in California, unless the consumer has been given a notice that allows him or her to avoid receiving the checks. Any unsolicited check would have to include a notice on how the consumer can avoid receiving future unsolicited checks. Violation would result in liability for the amount of the check and any nonsufficient funds fees.

**A.B. 129** (Cohn), introduced January 15, 2003, with Committee on the Judiciary. Hearing had been scheduled March 4, 2003, but was cancelled at the request of the author.

Would add Civil Code 1798.90.1 to the Information Practices Act of 1977 to make it a misdemeanor (maximum one year in jail and \$10,000 fine) for a business that uses information encoded on a state driver's license or ID card to record, store, or retain the information for marketing purposes

**A.B. 169** (Chavez), as amended April 21, 2003, with Committee on Banking and Finance. To Consent Calendar, April 23, 2003.

Would add Financial Code 22062 to exempt from the California Finance Lenders Law bridge loans by venture capital companies to operating companies

**A.B. 196** (Leno), as amended March 26, 2003. *Passed the Assembly (42-34) on April 21, 2003*; with Senate Committee on RLS for scheduling.

Bill is intended to address gender stereotyping. It would amend Government Code 12926 and 12949, which prohibits discrimination and harassment on the basis of sex, etc., by including gender in the definition of sex. Employers would be permitted to require employees to comply with reasonable workplace appearance, grooming, and dress standards (consistent with state and federal law), if employees are allowed to appear or dress consistently with their gender identity.

**A.B. 224** (Kehoe, Cohn), as amended March 24, 2003, with Committee on Business & Professions. Hearing cancelled at author's request.

Would add Civil Code 1748.35 to 1748.40 to allow a retailer to electronically read a driver's license or ID, and to store the data, only for specified purposes, such as to comply with laws requiring background checks. A retailer could not sell the data, and could share it only under certain circumstances. Actual damages (minimum \$1,500) plus reasonable attorney's fees. Triple damages if willful. A retailer could not deny goods or services to a consumer who exercises his rights under the bill.

**A.B. 309** (Chu), as amended April 29, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would amend Civil Code 1632 to requiring that any person engaged in a trade or business who negotiates specified contracts primarily in Chinese, Tagalog, Vietnamese, or Korean (as well as Spanish) to deliver a translation of the contract before execution.

The bill would become effective only if S.B. 146 is enacted and becomes effective on or before January 1, 2004.

**A.B. 313** (Dutra), introduced February 7, 2003. *Passed Assembly on April 24, 2003*; with Senate Committee on RLS for scheduling.

Would repeal Financial Code 50707 (which sunsets the California Residential Mortgage Lending Act as of June 30, 2005), thereby making that law, which licenses and regulates mortgage lenders permanent.

**A.B. 418** (Pacheco), as amended April 22, 2003, with Committee on the Judiciary.

Would amend Code of Civil Procedure 415.20, 415.45, and 415.46, and would add CCP 41595, on delivery of process. If the form of a business organization is unknown, delivery can be to a person apparently in charge.

**A.B. 485** (Ridley-Thomas), as amended April 21, 2003, with Committee on Banking and Finance. Hearing cancelled at author's request.

Would add Financial Code 4971 and 4972 to authorize any city with a population over 300,000, and any county with a population over 750,000, to adopt anti-predatory lending ordinances that go beyond state law.

Would repeal Financial Code 1916.12, which authorizes the Secretary of the Business, Transportation and Housing Agency to apply to state-regulated lenders making loans on residentially-secured property, rules equivalent to those that apply to federally-regulated financial institutions.

**A.B. 578** (Leno), as amended April 24, 2003, with Committee on Local Government. Hearing scheduled May 7, 2003.

Would enact (as an emergency statute, effective on passage) the Electronic Recording Delivery System Act by amending Government Code 27361.4 and adding Government Code 27390 et seq (and repealing Government Code 2729.4 and 2739.8) to allow county recorders to develop electronic recording systems, and to charge up to \$1 more per document for any document filed electronically. It would authorize up to 12 counties to participate in an electronic recording pilot project until January 1, 2011, with the Attorney General evaluating any such pilots and reporting to the legislature by June 30, 2007.

**A.B. 679** (Chavez), as amended April 21, 2003, with Committee on Appropriations.

Would amend Business & Professions Code 10229 to require a real estate broker to file information with the Real Estate Commissioner about any transaction to sell or offer to sell a series of notes secured directly by interests in one or more parcels of real property or the sale of undivided interests in a note so secured. The bill would prohibit the aggregate principal amount of the notes or interests and encumbrances from exceeding certain percentages of market value for each parcel, and would require a written statement or appraisal to be delivered to the purchaser.

**A.B. 690** (Pacheco), as amended March 27, 2003. *Passed the Assembly (72-0) on April 10*; to Senate Committee on RLS for assignment.

Would amend Code of Civil Procedure 488.455 and 700.140 to allow a financial institution to designate a centralized location to receive notices of levy on deposit accounts.

**A.B. 707** (Correa), as amended April 29, 2003, with Committee on Appropriations. No hearing scheduled.

Would add Education Code 51833 to require the Department of Consumer Affairs and the Superintendent of Public Instruction to develop curriculum and educational programs in personal financial management for grades 7 – 12.

**A.B. 763** (Liu), as amended April 2, 2003, with the Committee on the Judiciary. Hearing scheduled May 6, 2003.

Would amend Civil Code 1798.85 to prohibit mailing social security numbers (or portions thereof) on postcards or visible on envelopes, and to prohibit use of disguised social security numbers in place of social security numbers in a manner prohibited by the CCP.

**A.B. 800** (Kehoe), as amended April 24, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would amend Civil Code 1785.1, 1785.25, and 1785.31 to allow reporting of information to consumer credit agencies only when the reporter reasonably should have known that the information is accurate and complete, to revise the process for investigating disputed information, and to provide for statutory damages (in addition to actual damages and attorneys fees) of not less than \$2,500 to a person damaged by a negligent violation. Changes would apply only to information reported on or after January 1, 2005.

**A.B. 832** (Montanez), introduced February 20, 2003, with Committees on Banking and Finance and the Judiciary. No hearing scheduled.

Would add Financial Code 22302.5 to prohibit a licensed lender from denying an application for a consumer loan solely on the basis of race, ethnicity, national origin, native language, or ZIP code of the applicant's residence or business. All remedies at law and equity, including an action for injunctive relief.

**A.B. 1078** (Runner), as amended March 28, 2003, with Committee on Business and Professions. No hearing scheduled.

As introduced, would amend Business and Professions Code 17514 on electronic sellers who solicit newspaper or magazine subscriptions. As amended, the bill would also add Civil Code 1689.4 to allow any person age 65 or older 60 calendar days to rescind any contract with a financial institution (as defined in 12 U.S.C. 1843(k)) doing business in California if the transaction has financial implications for the person.

**A.B. 1092** (Harmon), as amended March 25, 2003, with Committee on Business and Professions. No hearing scheduled.

Would amend Civil Code 1749.5 and add Civil Code 1749.45 to prohibit the sale of any gift certificate or gift card that contains a service fee.

**A.B. 1105** (Jackson), introduced February 20, 2003, with Committee on Public Safety. No hearing scheduled.

Would amend Penal Code 803 to run the statute of limitations for identity theft from the time of discovery of the offense.

**A.B. 1175** (Koretz), introduced February 21, 2003, with Committee on Banking and Finance. Hearing postponed by Committee, April 23, 2003.

Would add Civil Code 1747.08 to prohibit a credit card issuer from sending out unsolicited preprinted credit card solicitations containing the consumer's name and address or other personal information.

**A.B. 1226** (Montanez), as amended April 21, 2003, with Committee on Business and Finance. No hearing scheduled.

Would add declare that credit unions are full-service retail depository institutions that can and do solicit potential members from an ever-expanding base, that they accrue great

benefits from doing business in California, and that they capitalization, loans-to-one0-borrower, and conflict-of-interest requirements are not as strict as those applicable to community banks. Would direct the Legislative Analyst's Office to review the feasibility of imposing a fee for funding public education, and the feasibility of other changes, on larger credit unions (state- or federally-chartered) that offer commercial loans to businesses, and that no longer require a "common bond." for the purpose of funding public education..

**A.B. 1295** (Calderon), as amended April 8, 2003, with Committee on Appropriations. No hearing scheduled.

Would add Welfare & Institutions Code 15710 et seq. to establish pilot programs in Los Angeles, San Diego, and San Francisco Counties for training bank employees in recognizing and reporting known or suspected instances of financial abuse of elders and dependent adults.

**A.B. 1355** (Wiggins), as amended April 21, 2003, with Committee on Appropriations. To Consent Calendar, April 30, 2003.

Would add Financial Code 216.3 on civil money penalties against licensed banks and their subsidiaries.

**A.B. 1664** (Montanez) , introduced February 21, 2003, with Committee on Banking and Finance. No hearing scheduled, or other action.

Would add Financial Code 4200 through 4213, the Bank Customer Bill of Rights, which would apply to California state banks and to foreign (other nation) banks licensed under Financial Code 1750 et seq.

A bank could not sell private credit information about a customer to a marketing business for profit without the customer's consent; could not charge customers using the bank's ATM cards an overdraft penalty of \$30 or more without providing notice of cumulative charges; could not issue credit cards with interest rates more than 2% above the prime rate; and could not charge more than "average" on a consumer loan if the customer qualifies for a lower rate and the bank has not advised the customer of that fact.

**A.B. 1705**, as amended April 30, 2003, with Committee on the Judiciary.

Would add Probate Code 16004.5 to prohibit a trustee from requiring a beneficiary to relieve the trustee of liability as a condition for making a required distribution or payment to or for the benefit of the beneficiary. But the bill would not affect a trustee's right to

maintain a reserve for reasonably anticipated expenses, or to withhold any portion of a distribution reasonably in dispute.

**A.B. 1713**, as amended April 30, 2003, with Committee on the Judiciary.

Would amend Code of Civil Procedure 1280 and add CCP 1281.24 and 1287.1 on consumer arbitration agreements.

**A.B. 1715**, as amended April 28, 2003, with Committee on Appropriations.

Would amend Code of Civil Procedure 1281 and add Government Code 12952 on employment arbitration.

**A.B. 1772**, introduced March 13, 2003, with Committee on Banking and Finance. Hearing scheduled May 5, 2003.

Would amend Penal Code 530.8 on identity theft.

**A.B. 1773**, introduced March 13, 2003, with Committee on Public Safety. To Consent Calendar.

Would amend Penal Code 786, on venue for identify theft prosecutions.

**A.B. 1774**, introduced March 13, 2003, with Committee on Appropriations. Do pass, 23 – 1.

Would amend Financial Code 261, 722, 1500, 1560, 1808, 1900, 4839, 4843, 4946, 8152, 14250, 14354, 16151, 16701, 31507, and 33903; would amend and renumber Financial Code 4879.12, 4879.13, and 4879.135; and would repeal Financial Code 8012. The bill would revise the provisions authorizing the DFI to examine banks et al. (authorizing examination of offices both instate and out-of-state), and to deliver to state or federal law enforcement agencies fingerprints of applicants for employment or for controlling persons for existing or proposed banks, etc. The bill would also revise the provisions authorizing banks and trust companies to make investments.

**A.B. 1776**, introduced March 18, 2003, with Committee on the Judiciary. Hearing scheduled May 6, 2003

Would amend Corporations Code 2105 on access to records of foreign corporations.

**S.B. 1** (Speier and Burton), as amended February 13, 2003, with Senate Committee on Banking & Finance. Hearing scheduled May 12, 2003.

Would enact the California Financial Information Privacy Act (Financial Code 4050 to 4059). A financial institution could share a consumer's nonpublic financial information

- with affiliated companies, only if the consumer has not opted out after receiving a specific notice;
- with nonaffiliated financial companies with whom the financial institution has contracted to provide financial products and services, only if the consumer has not opted out after receiving a specific notice;
- with nonaffiliated companies with whom the financial institution has not entered into a contract, only if the consumer has opted in after receiving a specific notice.

The law would preempt local ordinances.

**S.B. 25** (Bowen), as amended March 6, 2003, with Senate Committee on Appropriations in its suspense file.

Would amend Civil Code 1785.11.1 and 1798.15 to require any person who uses a consumer report in connection with the approval of credit to take reasonable steps to verify the consumer's identity. If a person has placed a security alert in his/her file requesting that identity be verified by calling a specific telephone number, the person who receives the statement with the consumer alert must call that number before lending money or the like.

Would also amend Civil Code 1798.85, on use of or posting of social security numbers.

**S.B. 27** (Figueroa), as amended April 30, 2003, with Senate Committee on Judiciary.

Would amend Civil Code 1798.80 through 1798.84, to allow a consumer to demand a written report from any business that has disclosed the consumer's personal information to a third party for direct marketing purposes. The report would have to include a description of the sources of the information, copies of the information disclosed (or in certain cases, alternative information), and the names and addresses of persons who have received the information during the last 12 months, or to whom the business has committed to disclose the information. No business could condition the sale of goods or services on the consumer's consent to disclosure of the consumer's personal information to third parties for direct marketing purposes.

Violation: Civil penalty of up to \$3,000 and reasonable attorneys fees.



**S.B. 69** (Oller), introduced January 17, 2003, with Senate Committee on the Judiciary. No hearing set, or other action..

Would amend Civil Code 54.1 to require advance warning, and opportunity for cure, of any claim that a place of public accommodation (such as an ATM machine) does not provide full and equal access to persons with disabilities.

**S.B. 122** (Escutia), introduced February 4, 2003, with Senate Committee on the Judiciary. No hearing scheduled, or other action.

Would amend Business & Professions Code 17204 to require any person suing under Bus. & Pro. Code 17,200, etc., on behalf of himself or the general public to notify the local district attorney within 3 days.

**S.B. 134** (Figueroa), introduced February 5, 2003. With Senate Committee on the Judiciary. At hearing April 22, 2003, do pass 5-0.

Would amend Civil Code 3259.5 to require the owner of a private work of improvement to notify by certified or registered mail the original contractor, and any claimant who has provided a preliminary 20-day notice prior to recording a mechanics lien or stop notice, that a notice of completion or a notice of cessation has been recorded within 10 days.

**S.B. 186** (Murray), as amended March 17, 2003, with Senate Committee on Business & Professions. Hearing scheduled April 28, 2003.

Would amend Business & Professions Code 17538.4 and add B&PC 17529 et seq. to prohibit advertisers, whether or not in California, from sending unsolicited commercial e-mail advertising to California e-mail addresses. Damages recoverable: \$1,000 per individual violation.

**S.B. 283** (Sher), as amended April 24. *Passed Senat (37-0), May 1, 2003;* to Assembly.

Would amend Commercial Code 9102(2), 9304, 9309, 9321, 9408, and 9521, and Vehicle Code 5907, to deal with, among things, lottery winnings as accounts.

**S.B. 342** (Florez), introduced February 19, 2003, with Senate Committee on Business & Professions. No hearing scheduled, or other action.

Would amend Business & Professions Code 17534.8 and add B&PC 17538.43 to require any sender of unsolicited e-mail to include the seller's identity, etc., and to honor any request not to send future e-mails.

**S.B. 395** (Florez), as amended April 28, with Senate Committee on Public Safety.

As introduced, would add Financial Code 13042 to require that every ATM in California be equipped with an emergency access button for customer safety. As amended, would amend Corporations Code 2355 to make it a felony for any corporate officer, director, agent, or shareholder to destroy documents or to make or concur in the omission to make any material entry in the corporate books, with intent to defraud.

**S.B. 434** (Escutia), as amended March 26, 2003, with Senate Committee on Public Safety. Hearing scheduled May 6, 2003.

Would amend various provisions of the Corporations and Government Code and add Penal Code 131, dealing with investigations of possible violations of securities laws. Among other things, the bill would provide for sharing of information with agencies of other states.

**S.B. 455** (Torlakson), as amended April 22, 2003. *Passed Senate (22-14), on April 28, 2003; to Assembly.*

Would amend Civil Code 1697.7 and 1697.8 re home equity sales contracts. The bill would increase the maximum fine against equity purchasers from \$10,000 to \$25,000, and authorize a court to award a civil penalty or not more than \$2,500 (in addition to actual damages) to a prevailing equity seller, if the court has not awarded exemplary damages..

**S.B. 505** (Perata), introduced February 20, 2003, with Senate Committee on the Judiciary. Hearing cancelled at author's request.

Would add Civil Code 1726, the Postmark Payment Act, that payments to financial institutions regulated by the Financial Code or to credit cards issuers regulated by Financial Code 1747 et seq. would be deemed received as of the date of the Postal Service's postmark, if the envelope is properly addressed, postage prepaid.

**S.B. 584** (Alarcon), as amended April 21, 2003, with Senate Committee on the Judiciary. Hearing postponed by Committee.

Would add Business & Professions Code 17531.3 to require any person (other than a 501(c)(3) nonprofit) who advertises or promotes a service or product in a language other than English to notify the customer of his/her right to certain materials in that language. Exception for a person with annual gross revenues of less than \$500,000 who provides an in-house translator.) Sole remedy for violation: civil penalty of up to \$5,000 per violation plus attorneys fees.

**S.B. 590** (Speier), introduced February 20, 2003, with Senate Committee on the Judiciary. No hearing scheduled, or other action.

Would add Civil Code 1749.70 et seq. to allow a seller to request personal information from a consumer only as necessary to effect, administer, or enforce a consumer purchase transaction that the consumer has requested or authorized, and would allow a seller to provide such information to third parties (including affiliated entities) only for the same reasons.

**S.B. 660** (Speier), as amended April 21, 2003, with Senate Rules Committee after getting do pass from Committee on the Judiciary, April 29, 2003.

Would add Civil Code 1798.855 to prohibit a title company from displaying a person's social security number in any public record.

Would also add Government Code 68154 to require confidential treatment of any court record that contains a person's social security number, bank account numbers, or information revealing the disposition of a decedent's estate.

**S.B. 663** (Speier), as amended April 28, 2003, with the Committee on Revenue & Taxation. Hearing scheduled May 7, 2003.

As introduced, would have added Revenue & Taxation Code 408.4 to provide that any computer terminal that is controlled by a county assessor and accessible to the public may not contain a subject search index that organizes property ownership by reference to an individual's name, unless there is a procedure to limit access to persons with a legitimate purpose for identifying a property owner by name.

As amended, deals with property tax delinquency notices.

**S.B. 691** (Escutia), introduced February 21, 2003, with Senate Committee on Insurance. Hearing scheduled May 7, 2003.

Would add Civil Code 1785.20.4 and Insurance Code 676.18 to require that an applicant's credit history not be used in a manner that would disparately impact a

protected class, and to prohibit underwriting standards for homeowners insurance from including an applicant's or insured's credit history.

**S.B. 766** (Florez), introduced February 21, 2003, with Senate Committee on the Judiciary. Hearing scheduled May 6, 2003.

Would amend Corporations Code 25500 to abrogate certain holdings of Kamen v. Lindly and California Amplifier, Inc. v. RLI Insurance Co., two securities fraud cases.

**S.B. 804** (Machado), introduced February 21, 2003. *Passed Senate (26-18) on April 28, 2003*; to Assembly.

Would amend Code of Civil Procedure 704.730 increase the homestead exemption (which was last increased three years ago) by 25%.

**S.B. 901** (Dunn), as amended April 21, 2003, with Senate Committee on Banking, Commerce, & International Trade. Hearing postponed by Committee

As originally introduced, would add Financial Code 60000 et seq., the California Community Reinvestment Act, to replicate the Federal Community Reinvestment Act on the state level. As now amended, the bill would only authorize DFI to charter "low-income credit unions."

**S.B. 917** (Alarcon), introduced February 21, 2003, with Senate Committee on the Judiciary. No hearing scheduled, or other action.

Would amend Corporations Code 309 to prohibit a director from performing his/her duties at the expense of the environment, human rights, the public health and safety, the communities in which the corporation operates, or the dignity of the corporation's employees. Suits against the director or the corporation under the bill would only be for liabilities that accrue after January 1, 2017. [That is not a typo!]

**S.B. 1022** (Perata), as amended May 1, 2003, with Senate Committee on Public Safety. Hearing scheduled May 6, 2003.

Would add Civil Code 1812.700 and 1812.701 to require third-party debt collectors to provide specific written notices to consumers, advising of rights under the federal Fair Debt Collection Practices Act. The notice would have to be in the language principally used in the initial oral contact with the consumer.

**S.J.R. 2** (Figueroa), introduced December 2, 2002, with the Committee on the Judiciary.  
No hearing scheduled, or other action.

Would request the U.S. Congress not to preempt any state privacy law that provides greater protection to consumers than is or will be provided by federal law.

Copies of the most recent text of any bill, and the dates of any scheduled hearings, can be obtained at [www.leginfo.ca.gov](http://www.leginfo.ca.gov).

Bob Mulford      May 5, 2003